Filed 7/20/09 In re S.A. CA2/7

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re S.A. et al., Persons Coming Under the Juvenile Court Law.	B211742 (Los Angeles County Super. Ct. No. CK59793)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. L.E., Defendant and Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Debra Losnick, Juvenile Court Referee. Affirmed.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for Defendant and Appellant.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County Counsel, and Melinda White-Svec, Deputy County Counsel, for Plaintiff and Respondent.

SUMMARY

The trial court summarily denied a mother's petition for modification of the court's prior order, seeking further reunification services and her children's return or unmonitored visitation with them. (Welf. & Inst. Code, § 388 [all statutory references are to the Welfare and Institutions Code].) The mother appeals. We affirm.

FACTUAL AND PROCEDURAL SYNOPSIS

In June 2005, the Department of Children and Family Services filed a section 300 petition on behalf of S.A. (then five) and A.A. (a newborn). According to the petition (as subsequently amended), the boys' mother L.E. and father L.A. had a history of physical altercations; A.A. was suffering from drug withdrawal symptoms; both he and L.E had a positive toxicology screen for methamphetamines at A.A.'s birth; and both L.E. and L.A. had histories of substance abuse.[1]

In its detention report, the Department indicated A.A. was on oxygen and in critical condition in the neonatal intensive care unit due to medical complications (fast breathing and poor eating). L.E. admitted using methamphetamine during her pregnancy—twice a day during the last weeks of her pregnancy. She was admitted with eclamptic seizures, chronic hypertension, poor prenatal care, Type 2 diabetes, acute kidney failure and uncontrollable bleeding. She said she and her boyfriend L.A. had separated during her first trimester because they did not get along. She said she had struggled with depression all her life and her depression worsened with pregnancy. L.E. said she would stop using drugs and would be able to care for her children as soon as she got a handle on her depression.

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[1] In October 2004, the Department had received a referral alleging S.A.'s emotional abuse. At the time of her interview, L.E.'s face and upper lip were bruised and she said L.A. "beat her up." The investigation at that time was inconclusive.

L.A. told the social worker he had been to prison for four years for drug possession and armed robbery but said he no longer used drugs. He said he and L.E. had separated because of her drug use and denied any domestic violence.

The court ordered the children detained, with monitored visitation for L.E. and L.A. S.A. was placed with a paternal aunt; A.A. remained at the hospital.

In October, the amended petition was sustained, and the disposition hearing was continued to November. At the November hearing, S.A. and A.A. were ordered returned to and placed with their mother L.E. The Department had confirmed L.E.'s participation in individual counseling, parenting, chemical dependency education, 12-step meetings and random drug testing.[2] L.E. was ordered to participate in parenting education, drug counseling with random weekly drug testing and domestic violence counseling.[3]

At the next hearing in December, the Department advised the court L.E. had tested "clean" (except for the glucose result attributable to her diabetes), but L.A. had several positive drug tests (methamphetamine and amphetamine). The court directed the Department to address termination of jurisdiction for the next hearing.

In March 2006, the Department filed a subsequent petition (§ 342) alleging L.E. had demonstrated emotional problems, including suicidal ideation; both L.E. and L.A. had positive toxicology screens for methamphetamine and amphetamine and had a history of substance abuse; and L.E. had allowed the children to be in L.A.'s custody despite his drug use and in violation of court orders. In its report, the Department informed the court L.E. had attempted suicide by going to a freeway overpass and threatening to jump off the bridge, but a "drug addict" talked her down and offered her drugs. (She said she refused them.) She said she was "too stressed out and overwhelmed" because L.A. was always criticizing her and putting her down. She said "[he] keeps telling me it's my fault. Everything is my fault. I was running scared."

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[2] Although L.E.'s test results were positive for alcohol, the Department confirmed with the laboratory technician that the positive result was attributable to L.E.'s diabetes.

[3] The trial court made the same orders for L.A. with unmonitored visitation.

In addition, the Department reported, both L.A. and L.E. had positive drug tests on February 17. L.E. said she and L.A. had "got[ten] high together' (while L.A. denied doing so). L.E. had missed several test dates in January, February and March (and so had L.A, in addition to having several positive results, in January and February). L.E. said she stopped testing and could not test the day of her interview because she knew she was using and knew it would be "dirty."

According to the therapist who had been seeing both L.E. and L.A. (Jung Lee), L.A. was extremely manipulative toward L.E. and would start arguments to upset her despite knowing how "emotionally fragile" she was. On one occasion, Lee said, the two argued so violently she had to take L.A.'s car keys because of his "out of control behavior." L.A. reported L.E. was often "hysterical" and would leave the children with him without supervision.

The trial court again detained S.A. and A.A. and placed them with their maternal grandparents, with monitored, separate visitation for L.E. and L.A. The court specified L.E. could not reside with the children in her parents' home unless she was in full compliance with her case plan.

In its May 2006 jurisdiction and disposition report, the Department informed the court L.E. admitted her drug use and had missed several tests. She said she was "stressed out" by L.A. and "under duress" when she used drugs. She said she was not in any programs but would test. L.A. continued to either miss his drug tests or have positive results from February through April (but denied his drug use). He said he had completed parenting and started counseling but had been dropped from his family reunification program because of "non-attendance issues." The court sustained the subsequent petition, ordering family reunification to include random, witnessed, on demand, weekly drug testing.

In its August status review report, the Department indicated L.E. had completed a parenting course but not drug counseling or a domestic violence program. She had enrolled in a recovery program but said she left twice because she was using drugs again. She had enrolled in a 16-week domestic violence program but then "just disappeared."

She missed several drug tests and tested positive for methamphetamine and amphetamine on May 18 and June 30. L.E. said she and L.A. (who also failed to show his completion of the court-ordered programs and counseling) were living together in a motel. L.E. said, "I know I relapsed but I love my kids and I want to work hard and try to get them back." The Department recommended the termination of reunification services and scheduling of a permanent plan hearing. The contested hearing was set for October.

In October, the Department reported L.E. was three-and-a-half months pregnant. She missed her July 6 drug test but had tested negative the two subsequent weeks. (L.A. had missed several tests and tested positive in May and June.) L.E. said she was not in any programs but "plan[ned] on enrolling." When the social worker discussed the possibility of the baby's detention, L.E. said she wanted to be reunified with S.A. and A.A. and keep her baby. The Department submitted a letter from a drug rehabilitation center indicating L.E. had been terminated from the program in February for multiple unexcused absences and had made no attempt toward reinstatement in the program. The trial court terminated reunification services and set the permanent plan hearing for February 2007. That hearing was continued to April for the completion of the adoption assessment.

In the meantime, V.A. was born in April, and the Department filed a section 300 petition on his behalf, containing allegations substantially similar to those set forth in the petition on behalf of S.A. and A.A with the additional allegations of L.E.'s drug use during her pregnancy with V.A. The Department further notified L.E. and L.A. it could seek an order that no reunification services be provided resulting in immediate permanency planning and termination of parental rights. (§ 361.5.)

In its detention report, the Department stated L.E. had been admitted to the hospital with seizures and required an emergency C-section. She admitted drug use (with L.A.) "off and on through her pregnancy," telling the social worker she had last used methamphetamines about a week before her delivery and had only had two prenatal care visits. She also disclosed a recent history of domestic violence (although both she and L.A. later denied this). L.E. said she and L.A. lived together next door to her parents'

house. She said she had hidden her drug use during her pregnancy so her family did not know about it.

The social worker had spoken with a maternal uncle who lived with the maternal grandparents and helped care for S.A. and A.A. This uncle said both the drug use and domestic violence still continued with L.A. and L.E., and they did not regularly visit the children. In addition, the uncle had also been home when L.A. was involved in a "shoot out" where he was shot in the leg because of his drug use and failure to pay his debt; L.A. told the social worker he did not know why he was shot.

The trial court ordered V.A. detained, with monitored visitation for L.E. and L.A. The Department was to initiate concurrent planning.

Later that month, the Department submitted its permanent planning report. The maternal grandparents with whom S.A. and A.A. had been living wanted to become the boys' legal guardians; the Department recommended legal guardianship without terminating L.E.'s and L.A.'s parental rights.

In May, the Department recommended no reunification services for L.E. and L.A. for V.A. and requested scheduling of a permanent plan hearing for V.A. The adjudication hearing for V.A. was scheduled to take place with the permanent plan hearing for S.A. and A.A. in June; these hearings were then continued to September.

In its September report, the Department indicated V.A. had been placed with his siblings in his maternal grandparents' home. L.E. had not shown up for her mid-July drug test and tested positive for methamphetamines and amphetamines later that month. She was terminated from her outpatient drug program in July. The social worker had been attempting to reach L.E. and L.A., but they had left their last known address and failed to provide a new address (a motel in Azusa) until the week before the September hearing date when L.E. reported she had enrolled in a family counseling program that day. L.E. admitted using methamphetamines because she said she got "discouraged."

L.A. had entered a rehabilitation program in April but exited less than two weeks later because of "identification fraud." He failed to appear for his April drug testing dates

(and one date in July) but otherwise tested negative from May through September. He had not provided any other information regarding participation in any other programs.

At the continued hearing date in November, the trial court sustained the section 300 petition as to V.A., ordering no reunification services for L.E. and L.A. The court granted the maternal grandparents guardianship of S.A. and A.A.; L.E.'s and L.A.'s parental rights were not terminated. The court ordered a supplemental report to address the issue of adoption for the three boys at the next hearing in March 2008.

In February, the Department filed section 387 petitions, alleging the maternal grandparents had violated court orders by allowing L.E. and L.A. unmonitored and unlimited access to the children and the legal guardians were unable to provide the children with ongoing care and supervision. The three boys were placed with their maternal aunt and her husband (at the same address as the maternal grandparents).

In the detention report, the social worker recounted a mandatory monthly visit in January where she discovered L.E. alone outside with A.A. L.E. told the social worker she and L.A. were now living across the street. A.A. approached the social worker, saying "What's up, fool?" and imitating gang gestures. The social worker saw L.A. dancing in the middle of the street, apparently intoxicated.

Two weeks before, the maternal uncle had called the social worker, expressing his concern for the children because the maternal grandparents had been allowing L.E. and L.A. daily unmonitored contact with the children. According to this uncle (a teacher and former honorably discharged Marine), L.E. and L.A. were living as transients in various neighborhood garages and apartments. L.A. had a strong affiliation with the 18th Street gang, associating with gang members in front of the residence on a daily basis. When L.A. was shot in the leg on the day of V.A.'s birth, he was the target of a drive-by shooting, with S.A. very close to the bullet's trajectory. L.A. drank excessive amounts of alcohol and wandered around in the middle of the street in a severely intoxicated state and acting in a highly inappropriate manner.

The maternal aunt and uncle said the maternal grandparents "meant well," but were "totally unable to control [L.A. and L.E.]." On one occasion, in the children's

presence, L.E. became verbally abusive and physically threatened her mother, backing her up against the wall resulting in the uncle's call to police to remove L.E. Both maternal grandparents were "extremely frail." L.E.'s mother had suffered a recent stroke and was partially paralyzed, unable to walk or stand without assistance; her father had diabetes and kidney disease, requiring dialysis three times a week.

S.A. confirmed the uncle's account, including his father's drinking and the unmonitored visitation (after the grandfather had promised the social worker he would monitor the visits). S.A. said the maternal aunt and uncle were the ones who took care of him and met his daily needs (food, homework, discipline, recreation). The maternal grandparents participated very little. He said he would rather live with his maternal aunt and uncle but would like to be able to visit his grandparents.

The maternal aunt and uncle had moved in with the grandparents to save for their own home. They had four children (three minors, ages 10, 13 and older plus one college student). They agreed to take steps to move into their own residence, far away from L.A. and L.E.

At the February hearing, the trial court ordered the children removed from the grandparents care and placed with the maternal aunt and uncle. The petitions were sustained in March, with the maternal grandparents provided unmonitored visitation. The court ordered monitored visitation for L.E. and L.A. in the DCFS office with a DCFS-approved monitor (not the grandparents). The permanent plan hearing remained pending, set for April, and a disposition hearing was set to address the possibility of reunification services for the maternal grandparents. Later that month, the Department filed a petition for modification of the court's prior order (§ 388), requesting termination of the maternal grandparents' legal guardianship of S.A. and A.A.

In May, the court ordered family reunification services for the maternal grandparents, directing them to complete a parenting education course for grandparents and to meet with a public health nurse to discuss nutrition for S.A. The grandparents were allowed unmonitored visits, but they were ordered to visit alone—without L.A. or L.E. or any paternal relatives present.

In July, the Department submitted an ex parte request to restrict the maternal grandparents to monitored visits. The week before, S.A. told the social worker he did not want to see his parents at the monitored visit scheduled that day. He said L.A. and L.E. had been at the unmonitored visit with his grandparents the day before. His grandfather had been asleep when the children arrived but woke up and told L.A. and L.E. to leave. They refused. L.E. screamed at the grandfather to "just sit down and be quiet." The grandfather sat as he was ordered and started crying, saying he was going to lose his visits with his grandsons. His parents kept yelling at the grandparents and telling them they needed to listen to L.E. and L.A.

S.A. said his mother noticed a small "dot" on the side of A.A.'s face and called out to S.A.: "[Y]our aunt is a bitch and you[r] uncle is an asshole." S.A. tried to tell her it was an accident from A.A. slipping in the shower, but L.E. and L.A. said his aunt and uncle were not his "real" aunt and uncle and would never be his parents. L.E. told S.A he had "better remember what she told him" about the aunt and uncle. L.A. told S.A. he "better not tell anybody" his parents had been at the visit, and both L.E. and L.A. told him he "better make sure" A.A. did not say anything about their visit either. S.A. told the social worker he did not want to visit his parents because "they will get mad" at him for telling on them. He could tell when his mother was mad at him because she would give him a "mean look." L.E. and L.A. told S.A. they would question him at their next visit whether he told anyone. He wanted his grandfather to move with him and his brothers to his maternal aunt and uncle's home.

S.A.'s therapist told the social worker S.A. appeared "very tense" and had told her he did not want to visit his parents or have visits with his grandparents at their home, describing the same events he had recounted to the social worker. The therapist said she would work with S.A. on coping skills to deal with his stress but suggested a custody evaluation to assess whether visits with the parents and unmonitored visits with the grandparents were in his best interest. In the past, when L.E. used to attend conjoint sessions with S.A., he was very tense and fearful of his mother. He told the therapist L.E. used to hit him and he was afraid she would continue. He appeared "really stressed"

when mentioning L.E. The therapist asked about a safety plan for S.A. when he had unmonitored visits with the grandparents. She asked, "[I]f something happened while on the visits, what is [he] to do?" The therapist also wrote a letter to express her concern, stating S.A. felt pressured to tell lies his parents fabricated, causing him "great internal distress." She said his most significant challenge was to feel safe during visits with his grandparents because of the conflict he witnessed there.

The social worker had also spoken with the instructor for the maternal grandparents' parenting class. Noting their frailty and apparent poor health (the grandmother sick and in a wheel chair and the grandfather recently hospitalized for complications relating to his dialysis), the instructor said the grandfather had attended one class and the grandmother had attended only two. She said L.E. and L.A. had accompanied the grandparents and "took over" the grandparents' conversations at times. They collaborated in making statements that the maternal aunt and uncle were unfit and incapable of caring for the children. The grandparents had said they wanted the children returned to their care because they loved them, but the parenting instructor said they did not appear to understand what was in the children's best interest, and it was obvious they were not in good health and raising young children would be difficult for them.

At the July hearing, the court ordered the maternal grandparents' visits to be monitored by a DCFS-approved monitor in a DCFS office and specified visits with S.A. were to be with S.A.'s consent.

In the August interim review report, the social worker said the maternal aunt and uncle had come to see her in June and provided a police report regarding a physical altercation between L.E. and the maternal aunt. After learning the maternal grandfather had been hospitalized and was "gravely ill," the maternal aunt said she had tried to visit him, but L.E. (accompanied by some out-of-state relatives) told her the grandfather did not want to see her and ordered her to leave. L.E. started yelling that the maternal aunt was the cause of the grandfather's illness because of what she and her husband had reported to the Department and because they had taken custody of the children. The relatives told the maternal aunt L.E. had told them the aunt had taken the children "by

deception." The maternal aunt told L.E. she truly loved her nephews but could not bear the stress. She was very angry and pointed her finger at L.E., telling her she was tired of the sabotage and would return the children to the Department so L.E. could leave her alone. At that point, L.E. reached out and started a physical altercation. The maternal aunt was remorseful and upset about the escalation of events.

The maternal aunt was very emotional and cried as she told the social worker she and her husband had done a lot of thinking and had decided to return the children to foster care. She said she loved her nephews as her own and her biological children were extremely upset with this decision, but the grandparents who had initially agreed the maternal aunt and uncle should care for the the children were now involved in the discord and destruction L.E. and L.A. were causing in their efforts to sabotage the children's lives. She wanted to know whether she could remain a prospective adoptive parent if reunification failed and parental rights were terminated.

The children were placed in respite foster care that day (June 24) in the Department's attempt to preserve the placement with the maternal aunt and uncle. S.A. was "emotionally crushed and confused" and continually asked when he would return to his maternal aunt and uncle. That same day, a paternal aunt called to express her "elation" that the placement with the maternal aunt and uncle had failed; she and another paternal aunt each requested the children's placement with them. Two days later, one of the paternal aunts complained to County Supervisor Gloria Molina's office her request for the children had not been considered.

Based on her assessment of the circumstances including the reports from S.A.'s therapist regarding his emotional struggles due to the discord between the paternal and maternal families, the social worker concluded that placement with a paternal aunt was not in the children's best interest. She had spoken with the maternal aunt and uncle again about the children's return. The maternal aunt said she loved the children and wanted what was best for them. She agreed her decision to return them to foster care had contributed to S.A.'s emotional distress and wanted the children returned to her. She said she was "willing to withstand any future anarchy imposed" by L.E., L.A. and the paternal

relatives. After three days in respite foster care, the children were returned to the maternal aunt and uncle. S.A. "scream[ed] with excitement" when he saw them and ran to hug them. A.A. and V.A. were smiling too.

L.E. made a formal complaint with the Department's Director and said her sister was not mentally stable; she said she wanted the children placed with paternal relatives, but was told the social worker had assessed the situation before returning the children to the maternal aunt and uncle. L.E. apologized to the social worker for "disruptive phone calls and threats" she had made, but said she was upset the maternal aunt could have the children returned after saying she did not want the children anymore because she was tired. L.E. said she would rather have the children in foster care than with the maternal aunt and uncle. She said she was happy when the boys were with the grandparents because she could visit whenever she wanted.

When the social worker and her supervisor went to visit the maternal grandparents' home in July, L.E. answered the door, saying they should have called first. The maternal grandfather had been back in the hospital in a diabetic coma and had just been discharged. He appeared very frail, weak and confused and quietly told the social worker he only wanted to focus on getting well. L.E. said she and L.A. did not live with the grandparents but came to the house every day to care for them. She said she and L.A. were living with a number of people in an apartment across the street but "would not have her children living in that environment."

L.E. said she had attended the parenting course with the grandparents. She said she and L.A. both planned to file petitions to obtain custody of the children because, L.E. said, if the maternal aunt adopted them, she would never see them again. She said she had enrolled in a drug program and was drug testing and receiving counseling. She said she was not enrolled in the required parenting, anger management and domestic violence classes but said she "plan[ned] to in the future."

Recent monitored visits for L.E. and L.A. with the children had been consistent and had gone well. S.A. was initially uncomfortable and afraid, but after being assured the visits would be safe, he agreed to participate.

S.A. told the social worker he wanted his maternal aunt and uncle to adopt him. He said he wanted to stay with them because "[t]here is no yelling, and it is nice living there." He also wanted his grandfather to live with them.

In August, L.A. filed a petition for modification of the court's prior order, requesting further reunification services to return the children to his care and/or unmonitored visits. (§ 388.) The court scheduled the matter for hearing "only on [the] issue of visitation" on September 24.

On September 24, L.E. filed a petition for modification of the court's May 2006 placement order. (§ 388.) "I would like further reunification services to please consider in returning my children back to my care and[/]or get unmonitored visits with my children." She said the court should change its order because "I've been sober now for 1 yr. 1 month. There has not been any domestic violence. I have a home to live in for my family. I will be completing my 6[-]month outpatient program in October including parenting classes." She said the changes she requested would be better for her children because "I truly believe from the bottom of my heart that my children belong with their parents as a family. We have a strong family bond and it would hurt my children not to be released to their parents."

L.E. attached a five-month progress report indicating she had attended 20 group sessions in connection with a six-month drug and alcohol program (Spiritt Family Services); a letter stating she had attended 8 sessions of a 12-session parenting program; documentation of negative drug testing for five dates in May, four dates in June, three dates in July, two dates in August (along with a letter stating she had been in the hospital for six days that month) and three dates in September; and a copy of an "incident inquiry" from the West Covina Police Department form, indicating the police had closed the matter of a July 14, 2008 physical altercation between two adult sisters.

The trial court summarily denied the request, marking boxes on the form L.E. had filed, identifying the following reasons: the facts do not support what is requested; the request does not state new evidence or a change of circumstances; the request does not show that it will be in the best interest of the children to change the order. As an

additional reason, the court made this notation: "Court is hearing this case as a § 388 for father, contested § 366.21(e) and § 366.26 trailing. Mother engaged in altercation at hospital her father was recently a patient in with her sibling."

L.E. appeals.

DISCUSSION

According to L.E., the trial court abused its discretion by summarily denying her section 388 petition, and she was denied due process as a result. We disagree.

As relevant, section 388 provides: "Any parent or other person having an interest in a child who is a dependent child of the juvenile court . . . may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court . . . for a hearing to change, modify, or set aside any order of court previously made . . . .

". . . .

"(d) If it appears that the best interests of the child may be promoted by the proposed change of order, . . . the court shall order that a hearing be held . . . ."

"Section 388 really is an 'escape mechanism' when parents *complete* a reformation in the short, final period after the termination of reunification services but before the actual termination of parental rights." (*In re Kimberly F.* (1997) 56 Cal.App.4th 519, 528, italics added.) "It is not enough for a parent to show *just* a genuine change of circumstances under the statute. The parent must show that the undoing of the prior order would be in the best interests of the child[ren]." (*Id.* at p. 529, original italics.) The trial court's determination in this regard will not be disturbed absent a clear abuse of discretion. (*In re Jasmon O.* (1994) 8 Cal.4th 398, 415; *In re Stephanie M.* (1994) 7 Cal.4th 295, 318.)

L.E. failed to demonstrate a change of circumstances warranting a change of the prior order. "[T]he essence of a section 388 motion is that there has been a change of circumstances. Accordingly, the nature of the change, the ease by which the change

could be brought about, and the reason the change was not made before bear on any such motion." (*In re Kimberly F., supra,* 56 Cal.App.4th at p. 531.) "A petition which alleges merely chang*ing* circumstances and would mean delaying the selection of a permanent home for a child to see if a parent, who has repeatedly failed to reunify with the child, might be able to reunify at some future point, does not promote stability for the child or the child's best interests." (*In re Casey D.* (1999) 70 Cal.App.4th 38, 47, italics added citation omitted.) "It is the nature of addiction that one must be 'clean' for a much longer period than 120 days to show real reform." (*In re Kimberly F., supra,* 56 Cal.App.4th at p. 531, fn. 9; and see *In re Cliffton B.* (2000) 81 Cal.App.4th 415, 424 [200 days insufficient to assure most recent relapse would be father's last].)

The record establishes L.E.'s considerable history of drug abuse, including extensive use during her pregnancies with A.A. and V.A., repeated failures to complete any programs and repeated relapses. She claimed she had been sober for a little over a year but the documentation on which she relied evidenced negative test dates over a period of just five months. L.E. had not completed either her drug program or parenting classes. (She had attended five months of a six-month drug program and attended 8 of 12 parenting classes.) There was no evidence to substantiate her assertion that there had been no domestic violence, and she had been abusive to her own parents and had gotten into a recent physical altercation with her sister. Although she had been transient and then "disappeared" for some time, she said she had a home for her children but she had reported she was living in an apartment with numerous other people in an environment in which she would not place her children. She repeatedly claimed she planned to complete the various required programs, classes and counseling in the future but she still had yet to follow through and do so. "'[C]hildhood does not wait for the parent to become adequate.'" (*In re Casey D., supra,* 70 Cal.App.4th at p. 47, citation omitted.)

Moreover, L.E. had failed to show that "undoing of the prior order would be in the best interests of the child[ren]." (*In re Kimberly F., supra,* 56 Cal.App.4th at p. 529.) While the social worker indicated A.A. and V.A were too young to provide meaningful statements in this regard, the record establishes that S.A. was fearful of his mother, did

not want to visit her and only became comfortable when visits with her were monitored in the Department office by a Department-approved monitor. He said his maternal aunt and uncle were the people who took care of him and met his daily needs, and S.A. wanted to be with them. L.E. made no attempt to address S.A.'s emotional distress and his therapists concerns or in any way establish that changing the court's prior order would be in the children's best interest—apart from her assertion that the children belonged with their parents. "'[*R*]*eal* parents are people who are dedicated and unshakably there for you, day in and day out. Period.'" (*In re Ariel H.* (1999) 73 Cal.App.4th 70, 75, original italics, citation omitted.) As L.E. failed to present any evidence a hearing on her petition would promote the best interests of her children, we find no abuse of discretion. (*In re Jasmon O.*, *supra*, 8 Cal.4th at p. 415.)

DISPOSITION

The order is affirmed.

WOODS, Acting P. J.

We concur:

ZELON, J.

JACKSON, J.